



**State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-2867



July 12, 2002

Peter Saalfrank
55 Timberlane
Weirs Beach, NH 03246

**NOTICE OF DECISION
ADMINISTRATIVE FINE
No. AF 01-153 (AIR RESOURCES)**

Dear Mr. Saalfrank

As you are aware, by Notice of Proposed Administrative Fine and Hearing No. AF 01-153 issued December 12, 2001, the Air Resources Division sought administrative fines totaling \$3,000 against you for alleged violations of Env-A 1000 and Env-A 1803.03 arising from unauthorized work conducted on property located on 981 White Oaks Road, Laconia, NH ("the Property"). Pursuant to RSA 125-C:15, I-b (b) and RSA 141-E:16, and based on my review of the evidence presented at the hearing held on this matter on April 29, 2002, I have concluded that a fine of \$2,000 is appropriate as set forth below:

A fine in the amount of \$2,000 is imposed against you for burning non-conforming materials on the Property.

- ▶ A fine in the amount of \$1,000 is imposed against you for failing to provide written notification to the Division at least 10 working days prior to demolition activities at the Property.
- ▶ Of the \$3,000 fine imposed, \$1,000 is suspended conditional upon you committing no violations of RSA 125-C and RSA 141-E for a period of two years from the date of this decision. If you violate RSA 125-C or RSA 141-E within two years from the date of this decision, regardless of when the final determination is made that the violation occurred, the \$3,000 fine shall be due and payable.

The \$2,000 fine shall be paid within 30 days of the date of the decision

Fine payments shall be by check or money order payable to "Treasurer-State of NH" and sent to the attention of the DES Legal Unit/Office of the Commissioner, PO Box 95, Concord, NH 03302-0095.

The purpose of RSA 125-C is to regulate air pollution control. Asbestos management and control is regulated under RSA 141-E. The purpose of these statutes is to maintain clean air resources, and to control public exposure to asbestos, respectively, in order to protect public health and the environment.

You violated RSA 125-C by burning non-conforming materials that included painted wood and treated lumber. By burning this material, you allowed air pollutants to be generated and emitted directly into the air and deposited onto soil or into water bodies, thus contributing to

damaging health and environmental impacts. Further, you violated RSA 141-E by demolishing the house located on the Property without first notifying DES of the demolition. During the demolition, you may have allowed asbestos fibers to be released into the air thus endangering human health and contaminating the environment.

You are liable for burning non-comforming materials and for not notifying DES of the demolition. By conducting these unauthorized activities on the Property, you endangered public health and the environment.

This decision is based on the following findings and conclusions:

- 1 Peter Saalfrank is the owner of Property located at 981 White Oaks Road, Laconia, New Hampshire ("the Property").
- 2 RSA 125-C authorizes DES to regulate sources of air pollution.
- 3 RSA 141-E authorizes DES to regulate exposure to asbestos fibers.
- 4 On November 30, 2000, a house located on the Property was damaged by fire.
- 5 On January 18, 2001, DES staff met with Mr. Saalfrank at the DES offices in Concord. At this meeting, they discussed the rules pertaining to demolition and open burning.
- 6 On January 19, 2001, DES staff met Mr. Saalfrank at the Property. At this meeting, staff observed the remains of the house and identified to Mr. Saalfrank areas of the house that may have asbestos containing material and advised him to have samples of these materials checked for asbestos. Staff informed Mr. Saalfrank that at least 10 days prior to demolishing the house, he was required to file a notification of demolition with the Air Resources Division, the EPA regional office, and the local health officer.
- 7 On January 22, 2001, DES staff telephoned Mr. Saalfrank and again advised him that he could burn only untreated wood. Staff told Mr. Saalfrank that the hardwood flooring, plywood, wafer board, and any other treated, painted, or manufactured wood, and horsehair plaster, and carpet could not be burned.
- 8 By letter dated January 30, 2001, DES again informed Mr. Saalfrank that he could burn untreated wood but could not burn treated wood such as plywood or wafer board. The letter reminded Mr. Saalfrank that he must submit a notification form prior to demolishing the house. Included in this letter was a copy of Env-A 1000 and the January 19th inspection report.
- 9 On or about March 9, 2001, Mr. Saalfrank hired Steve Fereshetian to demolish the house and perform related activities with respect to the demolition.
- 10 Mr. Fereshetian is the owner of Affordable Septic, a Laconia-based business that excavates, and installs and repairs septic systems.

- 11 Mr. Fereshetian is not a certified asbestos consultant or a licensed asbestos abatement contractor.
- 12 On March 15, 2001, DES received a complaint that demolition debris was being burned on the Property. DES staff then telephoned Mr. Saalfrank and informed him of the complaint and told him to stop the burning.
- 13 The afternoon of March 15, 2001, DES staff inspected the Property and observed a pile of smoldering demolition debris. Since no one was at the Property, staff left a note requesting that someone contact DES.
- 14 When Mr. Fereshetian telephoned DES later that day, staff advised him that only untreated wood could be burned and that the notification of demolition had not been filed. Mr. Fereshetian told staff that he would send in the notification.
- 5 On March 28, 2001, DES staff inspected the Property and discovered Mr. Fereshetian dismantling the rest of the house. Staff observed a burning pile of demolition debris consisting of a part of the roof, tarpaper, metal flashing, roofing shingles, and painted trim boards.
- 6 At this inspection, staff told Mr. Fereshetian that he could burn only clean, untreated wood and then pulled different items from a pile of debris and showed him examples of what could and could not be burned. Staff reminded him that he must file a notification of demolition 10 days prior to demolishing the structure.
- 7 On April 11, 2001, DES staff inspected the Property and observed that most of the house had been dismantled and charred debris had been piled on the Property; painted and treated wood was piled on the charred debris. Several piles of charred material contained demolition debris including painted and treated wood, metal, and plastics.
- 18 Under Env-A 101.92 "Demolition" means "the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operation or the intentional burning of any facility."
- 19 The dismantling of the house on the Property is "demolition" as defined under Env-A 101.92.
- 20 Under Env-A 101.286 "Untreated wood" means "any timber, board or sawn dimensional lumber which has not been treated, coated or preserved. This term does not include any manufactured building material, such as plywood or waferboard."
- 21 The wood burned on the property is not "untreated wood" as defined by Env-A 101.286 because it consisted of painted wood, plywood, waferboard, and other treated wood products.
- 22 Env- A 1001.03(c)(4) allows for the burning of untreated wood from the demolition of a building.

- 23 Env- A 1803.03 requires written notification to DES at least 10 working days before asbestos abatement activity begins.
- 24 Mr. Saalfrank violated Env-A 1000 by burning non-conforming materials on the Property.
- 25 For a violation of Env-A 1000, RSA125-C:15, I-b authorizes a fine of \$2,000.
- 26 Mr. Saalfrank violated Env-A 1803.03 by failing to provide written notification to the Division at least 10 working days prior to demolition activities on the Property.
- 27 For a violation of Env-A 1803.03, RSA 125-C:15, I-b authorizes a fine of \$1,000.
28. None of the factors identified in Env-C 601.09(c)(1) through(4) apply to reduce the amount of the fine that can be imposed for the violations.

You violated RSA 125-C by burning non-conforming materials on the Property that included painted wood and treated lumber. Further, you violated RSA 141-E by demolishing the house located on the Property without first notifying DES of the demolition. Thus, for the reasons discussed above, I have concluded that the \$2,000 fine imposed against you is appropriate.

Any party aggrieved by this decision may file a motion for reconsideration within 30 days of the date of this decision, in accordance with RSA 541 and Env-C 206 (copy enclosed.)

Very truly yours,


George Dana Bisbee
Assistant Commissioner

Enclosure

cc:

Robert R. Scott, Deputy Director, Air Resources Division
Mark Harbaugh, DES Enforcement Attorney
Gretchen Rule, DES Legal Unit
Susan Weiss Alexant, DES Hearings and Rules Attorney